

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

WESTCHESTER FIRE	)	
INSURANCE COMPANY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-12-1019-D
	)	
LEXINGTON INSURANCE	)	
COMPANY; and AMERICAN	)	
MOTORISTS INSURANCE	)	
COMPANY,	)	
	)	
Defendants.	)	

**WESTCHESTER FIRE INSURANCE COMPANY’S NOTICE OF  
VOLUNTARY DISMISSAL OF ALL CLAIMS AGAINST  
LEXINGTON INSURANCE COMPANY WITHOUT PREJUDICE  
PURSUANT TO RULE 41(a)(1)(A)**

1. On January 15, 2013, Westchester Fire Insurance Company (“Westchester”) filed a *Notice of Related Case* in which Westchester provided the Court with notice of a potentially related or companion case now pending before the Honorable Kyle Carter in the 125<sup>th</sup> Judicial District, Harris County, Texas styled as *Citgo Petroleum Corp., et al. v. International Insurance Company, et al.*, Cause No. 2009-56585 (the “Texas Action”). See Doc. No. 43.

2. On January 17, 2013, this Court entered an *Order Granting Plaintiff’s Motion for Temporary Stay of Proceedings Against Defendant Lexington Insurance Company* (“Order”). See Order at Doc. No. 47. Under the terms of the Court’s Order, this case was stayed for a period of 90 days, at the end of which, Westchester was

required to report on the status of its efforts to add Lexington to the Texas Action. *See id.* at 2.

3. On the ninetieth (90<sup>th</sup>) day of the stay and, in accordance with the Court's *Order*, Westchester filed a *Status Report* (Doc. No. 49) regarding its efforts to add Lexington as a party to the Texas Action, specifically providing the Court with notice that:

- a. Westchester obtained leave from the Texas court to file a third-party petition against Lexington;
- b. Westchester served Lexington with the third-party petition; and
- c. Westchester was awaiting the filing of Lexington's answer and/or other responsive filing to determine whether Westchester intends to pursue its claims against Lexington in this forum.

4. In response to Westchester's *Status Report*, the Court entered an *Order Extending Stay of Proceedings Against Defendant Lexington Insurance Company* ("Stay Extension Order"), requiring Westchester to file notice of its intentions with respect to proceeding with its claims against Lexington in this case. *See* Doc. No. 50.

5. In conformance with the Court's *Stay Extension Order*, Westchester hereby provides the Court with notice that Lexington has filed an answer to Westchester's third-party petition in the Texas Action, and it is Westchester's intent to pursue its claims against Lexington in the Texas forum.

6. Neither Lexington nor American Motorists Insurance Company has filed an answer or motion for summary judgment in this action.

7. Therefore, Westchester hereby provides notice that it is voluntarily dismissing all of its claims asserted against Lexington Insurance Company in this action, without prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(A).

Respectfully submitted,

*s/Paula M. Jantzen*

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ATTORNEYS FOR PLAINTIFF,  
WESTCHESTER FIRE INSURANCE  
COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2013, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Michael L. Carr – [MikeCarr@HoldenLitigation.com](mailto:MikeCarr@HoldenLitigation.com)  
Drew A. Lagow – [DrewLagow@HoldenLitigation.com](mailto:DrewLagow@HoldenLitigation.com),  
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*s/Paula M. Jantzen*

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Paula M. Jantzen